

21 October 2015

Mr John Stanton
Chief Executive Officer
Communications Alliance Limited
PO Box 444
MILSONS POINT NSW 1565

Dear Mr Stanton

Draft Inbound Number Portability Code (C657:2015)

The Telecommunications Industry Ombudsman (TIO) welcomes the opportunity to comment on the proposed draft Inbound Number Portability Code (DR C657:2015) (the draft INP Code).

General comments

We are pleased to see the development of an industry code that sets out the operational arrangements for the porting of freephone (18/1800) and local rate (13/1345/1300) numbers. The draft INP Code contains important safeguards that ensure small business consumers are able to seamlessly port their freephone or local rate numbers between providers and to retain these numbers when porting their service.

We set out below several specific comments on the draft INP Code in the order these relate to the relevant clauses in the draft Code, for consideration of the Working Committee.

Specific comments

Handling complaints under the draft INP Code

Each year, the TIO receives a small number of complaints from small business consumers about porting delays, unauthorised ports or loss of numbers relating to freephone or local rate services. These types of complaints can severely impact small businesses that are reliant on their freephone or local rate numbers. These complaints are usually effectively resolved through the TIO's referral and conciliation processes.

The operational arrangements in the draft INP Code, to the extent they relate to consumer safeguards, are similar to those contained in the Local Number Portability (LNP) Code and to some extent, the Mobile Number Portability (MNP) Code. Both these industry codes contain express complaint handling provisions (see for example, clause 1.5 of the LNP Code and clauses 8.2 and 8.3 of the MNP Code) that relate to:

- (a) the power of the TIO to handle complaints from end-users about matters arising under the codes, and
- (b) how intra-industry disputes about non-compliance under the codes are to be handled.

Telecommunications Industry Ombudsman Ltd ABN 46 057 634 787

PO Box 276 Collins Street West
Vic 8007
Level 3, 595 Collins Street
Melbourne 3000

Tel freecall* 1800 062 058
Fax freecall* 1800 630 614
Telephone 03 8600 8700
Fax 03 8600 8797

TTY 1800 675 692
Email tio@tio.com.au
Web www.tio.com.au

* calls from mobile phones may incur charges

These complaint handling provisions are absent from the draft INP Code. These provisions are particularly important to ensure that complaints from consumers about matters arising under the draft INP Code can be referred to and resolved by the TIO; and for intra-industry disputes about non-compliance with the draft INP Code to be resolved quickly.

We recommend the inclusion of express complaint handling provisions similar to those provisions in the LNP and MNP Codes, in the draft INP Code.

Customer authorisation obligations

The draft INP Code makes reference to the draft Customer Authorisation Guidelines (G651:2014) that have yet to be finalised. Without visibility of the final version of these guidelines, it is unclear if the customer authorisation provisions in Chapter 4 of the draft INP Code contain sufficient safeguards to ensure proper authorisation is obtained before freephone or local rate numbers are ported. Substantial detriment can be caused to small businesses if their freephone or local rate numbers are ported without proper authority or informed consent.

Separately, we reiterate our concerns about the conversion of important code obligations around customer authorisation into voluntary guidelines, as outlined in the [TIO submission to Communications Alliance on proposed changes to operational codes and guidelines dated 3 November 2014](#). Guidelines do not have the same standing and compliance requirements as code obligations. Converting authorisation obligations into guidelines reduces the obligations on service providers to ensure a port is authorised before it takes place.

We recommend the inclusion of relevant authorisation and informed consent obligations in the draft INP Code, especially given that some of these obligations are proposed to be removed from the Telecommunications Consumer Protections (TCP) Code. Alternatively, if the Customer Authorisation Guidelines are introduced to replace more specific authorisation and informed consent code obligations, we recommend the inclusion of an obligation for service providers to adopt and comply with the requirements in the Guidelines, in clause 4.1 of the draft INP Code.

Guide to requirements for customer authorisation

The draft INP Code contains a boxed text "Guide to requirements for customer authorisation" (the Guide) under the heading 4.1: General Process Requirements, in Chapter 4 of the draft Code. We are concerned that the use of the term "Guide" will reduce the imperative on service providers to ensure a port is authorised before it takes place. This is especially the case as clause 1.1.8 of the draft INP Code provides that "Statements in boxed texts are a guide to interpretation only and not binding as Code rules". The use of the term "Guide" appears to be inconsistent with the mandatory nature of the information requirements for customer authorisation as stated in clause 4.1.9(b) of the draft INP Code.

One way to address the potential inconsistency would be to remove the words "Guide to" from the title of this part, so that it reads "Requirements for Customer Authorisation", and removing the box from this text.

As noted above, the TIO receives a small number of complaints from small business consumers about, among other matters, unauthorised ports of their freephone or local

rate services. These disputes can sometimes arise because an employee of the small business has agreed to a transfer without having authority for this, and the provider has not verified that person's authority. To address potential disputes about unauthorised ports, and noting the importance of established freephone and local rate numbers to businesses, we recommend the inclusion of the following requirements on the gaining service provider when obtaining customer authorisation for a port:

- the details of any authorised representative including their title, name and address, and confirmation of their authority to request the porting of the freephone or local rate service on behalf of the customer
- the details of the customer's agent (if the agent is acting for the customer to request porting of the service), including name or company name, address and details of any authorised representative, and
- the contact details of the customer in addition to an address.

Validation of porting requests

Strong validation procedures can also reduce the incidence of unauthorised ports and help maintain confidence in the porting arrangements for freephone and local rate numbers.

In addition to our recommendations about customer authorisation requirements above, we recommend strengthening the validation obligations in the draft INP Code by requiring:

- (a) both the gaining and losing service providers to verify that the consumer authorising the port request is the account holder (or a validly appointed representative) for the freephone or local rate service, and
- (b) improved communication between the gaining service provider and the losing service provider if the information about the account holder held by the gaining service provider does not match the information held by the losing service provider.

Dispute resolution processes

The draft INP Code contains minimal arrangements about the handling and resolution of disputes. Other than a general reference to the Telecommunications Consumer Protections (TCP) Code in clause 1.1.3, the draft INP Code lacks any detailed outline of the management of complaints or any referral, if required, of unresolved complaints to external dispute resolution.

To ensure the timely and effective resolution of any complaints arising under the draft INP Code, we recommend the inclusion of:

- (a) timeframes for the gaining service provider and the losing service provider to respond to issues and resolve disputes
- (b) safeguards to ensure that service numbers are not lost while a dispute is being resolved
- (c) where a consumer complains about a porting process, consistency with the complaint management provisions in chapter 8 of the TCP Code (this includes referral of unresolved complaints to the TIO), and

(d) keeping a consumer informed of the progress of their port or, if there are delays or other issues, when these are likely to be rectified.

Further information

We trust our comments are of assistance to Communications Alliance as it finalises the draft INP Code.

If you require any further information from the TIO, please do not hesitate to contact Shobini Mahendra, Manager – Policy, Research and Systemic Issues on 03 8600 8700.

Yours sincerely



David Brockman
Executive Director – Industry, Community and Government